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**TITLE 318 DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT**

LSA Document #06-125

TO: Senator R. Michael Young, Chairperson
Administrative Rules Oversight Committee

FROM: Thomas W. Easterly, Commissioner
Indiana Department of Environmental Management

DATE: May 19, 2006

SUBJECT: New Rules at 318 IAC 1 Concerning the Inspection and Cleanup of Properties Contaminated by Chemicals Used in the
Illegal Manufacture of a Controlled Substance; LSA Document #06-125

This notice is provided in accordance with IC 4-22-2-19(c).

Senate Enrolled Act 444 (P.L.192-2005) added a new IC 13-14-1-15. That section was effective on July 1, 2005 and requires the Indiana Department of Environmental Management (department) to:

- (1) maintain a list of persons certified to inspect and clean property that is polluted by a contaminant;
- (2) specify by rule that a person who meets certain qualifications prescribed by the department is a person certified to inspect and clean property that is polluted by a contaminant;
- (3) adopt rules under IC 4-22-2 to implement the list and concerning the inspection and remediation of contaminated property.

On August 1, 2005, the department published a First Notice of Comment Period under LSA Document #05-182 to initiate rulemaking in response to IC 13-14-1-15 (28 IR 3359). Public comment was taken on that notice from August 1, 2005 through August 31, 2005. On January 1, 2006, the department published a Second Notice of Comment Period and draft rule language (29 IR 1396). Public comment was taken from January 1, 2006 through February 1, 2006. The department modified the draft rule language based on the comments received on the second notice. On March 21, 2006, the Solid Waste Management Board preliminarily adopted the department's revised draft rule language.

On March 21, 2006, the Indiana Attorney General directed the department to adopt rules required by IC 13-14-1-15 under the rulemaking process in IC 4-22-2. The Attorney General cited the unique wording of IC 13-14-1-15(c) as the basis for this decision.

On May 1, 2006, the department published a Notice of Intent to Adopt a Rule under LSA Document #06-125 to initiate IC 4-22-2 rulemaking in response to IC 13-14-1-15 (29 IR 2588). The department anticipates the following schedule for rulemaking under #06-125:

- (1) Publication of the proposed rule in the Indiana Register on June 1, 2006.
- (2) Public hearing and adoption of the final rule during late June or early July, 2006.
- (3) Approval by the Attorney General and Governor by October 31, 2006.

If you have any questions concerning this proposed rule, please contact Bruce Palin, Assistant Commissioner, Office of Land Quality at 233-6591 or Steve Mojonier in the Rules, Planning and Outreach Section at 233-1655.

Attachments:

First Notice of Comment Period: August 1, 2005 Indiana Register (28 IR 3359)

Second Notice of Comment Period: January 1, 2006 (29 IR 1396)

Notice of Intent to Adopt a Rule: May 1, 2006 Indiana Register (29 IR 2588)